

**IN THE CLAIMS**

Please cancel claims 1-14 without prejudice or disclaimer. Please add the following new claims 15-24.

A complete copy of the claims and their current status is set forth below.

1-14. (Canceled).

15. (New) Apparatus, comprising:

a processor;

a media player;

code executable by the processor to carry out the following method steps:

as a media stream is being received from a first server and rendered by the media player, determining whether the media stream is acceptable according to a given metric;

if the media stream is not acceptable, and as the media stream continues to be received, taking a given action to initiate delivery of the media stream from a second server; and

receiving the media stream from the second server;

rendering the media stream in the media player.

16. (New) The apparatus as described in claim 15, wherein the code is executable by the processor to initiate an instruction to the first server to cease transmission of the media stream after the media player begins rendering the media stream received from the second server.

17. (New) The apparatus as described in claim 16, wherein the given action includes issuing a request to the second server to begin the media stream at a given offset.

18. (New) The apparatus as described in claim 15, wherein the code is executable by the processor to match data packets received from the first and second servers such that the media stream rendered in the media player appears continuous.

19. (New) The apparatus as described in claim 15 further including a buffer in which at least a portion of the media stream is cached before the given action is taken.

20. (New) The apparatus as described in claim 15 wherein the media stream is not acceptable if it is being thinned by the first server.

21. (New) The apparatus as described in claim 15 wherein the media stream is not acceptable if a given indication from the first server is received.

22. (New) The apparatus as described in claim 15 wherein the given indication is that the first server will be unavailable.

23. (New) The apparatus as described in claim 15, wherein the code executable by the processor determines that the second server has a response time that differs from a response time of the first server.

24. (New) The apparatus as described in claim 15, wherein the code executable by the processor determines whether the media stream is acceptable periodically as the media stream is being delivered.

25. (New) The apparatus as described in claim 15, wherein the code executable by the processor records given data associated with receipt of the media stream.